

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JANUARY 3, 2013

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:30 p.m. by Darnell Brown.

I. Roll Call

PRESENT: D. Brown
R. Sulik
S. Kelly
T. DeGeeter
W. O'Malley

ABSENT: J. Bacci
G. Starr

The Secretary informed the President that a quorum was in attendance.

II. Approval of Minutes

MOTION – Mr. O'Malley moved and Mr. Sulik seconded that the minutes of the December 20, 2012, Board Meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board that no one signed up to speak about a specific agenda topic.

IV. Executive Director's Report

Executive Director Ciaccia informed the Board that the District received a \$6 million wire transfer from KMM&K as the final settlement in the lawsuit for the Mill Creek Tunnel. The settlement agreement was for KMM&K to pay \$6 million up front and then six additional payments of \$1 million each over the next six years. For tax purposes, they requested to pay them in lump sum and staff accepted that arrangement. That money will go into the capital account.

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Executive Director Ciaccia advised that the wire transfer and the resolution on the agenda today to finalize the Mill Creek Tunnel job would be the end of the issue, but there is still an insurance claim staff is pursuing and will be discussed in Executive Session.

Another important litigation matter is the Stormwater Management Program (hereinafter "SMP"). The District's brief is due tomorrow and is ready to be filed in the Court of Appeals. He explained that a number of organizations will file amicus briefs on the District's behalf tomorrow, including the National Association of Clean Water Agencies, the American Public Works Association, The National Association of Flood and Stormwater Management Agencies, The American Rivers Association, The Association of Ohio Metropolitan Water Agencies and The Council of Regional Districts in Ohio. The District has strong support going into the appellate process.

Executive Director Ciaccia advised that the litigation matter regarding the 3320 Woodland property is well prepared. The property referenced experienced a collapse of the Mill Creek interceptor. A pretrial meeting is scheduled tomorrow with Judge McCormick and will be attended by Marlene Sundheimer, Director of Law. The trial is scheduled to begin in the latter part of January. He was unsure if there would be last ditch efforts to reach a settlement, but is prepared to proceed.

Concluding his report, Executive Director Ciaccia stated that there have been continuing issues with the tunnel dewatering pump station as it relates to the joint venture of Walsh & Atkinson. Staff had issues previously when the Walsh/Atkinson Joint Venture stopped work on the cavern relative to shotcrete application and safety issues, which were later resolved.

Additional issues are coming up and at this point staff thinks there is potential for matters to end up in litigation. Executive Director Ciaccia stated that there are continuing issues on that particular job that can hopefully be resolved, but if not, staff will have to be prepared to take action.

V. Action Items

Authorization to Advertise

Resolution No. 1-13

One-Year Requirement Contract for Centrifuge Polymer for Use at the Westerly Wastewater Treatment Plant. Anticipated Expenditure: \$141,000.00.

Resolution No. 2-13

Two-Year Requirement Contract for Overhead Door Maintenance at All District Facilities.

Anticipated Expenditure: \$41,000.00.

MOTION – Mr. O’Malley moved and Mayor DeGeeter seconded to adopt Resolution Nos. 1-13 and 2-13. After discussion and without objection, the motion carried unanimously.

Authorization to Re-Bid

Resolution No. 3-13	Reject All Bids and Re-Bid Sewer Capacity Restoration and Repair Project. Engineer’s Opinion of Probable Construction Cost: \$712,000.00.
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MOTION – Mr. Sulik moved and Ms. Kelly seconded to adopt Resolution No. 3-13. After discussion and without objection, the motion carried unanimously.

Mr. Brown questioned what type of project the resolution would be; he noted that the MBE-WBE participation goal is 6%. Kellie Rotunno, Director of Engineering & Construction, advised that the project is an extensive hydraulic cleaning and repair contract for the pipe and is very highly specialized. Some bids met the requirements and Marra Services is a WBE, but their bid was nonresponsive.

Mr. Brown stated that it is just pipe and there is no hauling of material. He inquired if that might lend itself to some opportunity since 6% is a low number. Ms. Rottuno stated that it is a small job and the amount of work to be subcontracted is not significant. The project would mostly be performed by the firms bidding on it and in some cases qualified WBEs could do the work as a prime contractor.

Executive Director Ciaccia advised that staff will again review the bids but when the resolution was put together a 6% goal was the expected result. Mr. Brown understood but wanted his concern noted.

Authorization to Enter Into Agreement

Resolution No. 4-13	Agreement with the Ohio EPA-Ohio Environmental Education Fund to Receive Grant Funding Award. Total Funding Award: Not-to Exceed \$8,750.00.
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Resolution No. 5-13	Settlement Agreement with Charter Steel. Settlement Amount: \$589,560.13.
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MOTION – Ms. Kelly moved and Mayor DeGeeter seconded to adopt Resolution Nos. 4-13 and 5-13. After discussion and without objection, the motion carried unanimously.

Authorization of Contract Modification

Resolution No. 6-13

Final Adjustment Deduct Order for Contract No. 10000033 with Nerone & Sons, Inc. for the Mill Creek Tunnel Phase 3 Completion Project. Cost: A Decrease in the Amount of \$661,765.05 Bringing the Total Contract Price to \$12,822,374.95.

MOTION – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution No. 6-13. After discussion and without objection, the motion carried unanimously.

Authorization of Settlement Agreement

VI. Information Items

There were no Information Items.

VII. Public Session (any subject matter)

No members from the public registered to speak during Public Session.

VIII. Open Session

There were no matters for Open Session.

IX. Executive Session

Mr. Brown stated that there were matters for discussion in Executive Session.

MOTION – Mr. Sulik moved to enter into Executive Session to discuss the following litigation matters: Traveler's Insurance employee dishonesty claims -- crimes claims, and claims regarding the Easterly dewatering pump station and Euclid Creek tunnel projects. He stated that discussion of these matters in Executive Session are permitted as specific exceptions to the Public Meetings Act pursuant to Ohio Revised Code §121.22(G)(3), and he specifically designated all matters discussed in Executive Session to be protected from public disclosure in accordance with Ohio Revised Code and attorney-client privilege. A roll call vote was taken and the motion carried unanimously to adjourn into Executive Session.

The Board met in Executive Session from 12:42 p.m. to 1:18 p.m.

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X. Approval of Items from Executive Session

Resolution No. 7-13

Authorization to Negotiate Settlement Agreement
and to Mediate Insurance Claims.

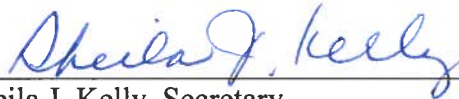
Resolution No. 8-13

Authorization to Retain Legal Counsel.

MOTION – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution Nos. 7-13 and 8-13. After discussion and without objection, the motion carried unanimously.

XI. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mr. O’Malley moved and Ms. Kelly seconded the motion to adjourn at 1:19 p.m. Without objection, the motion carried unanimously.



Sheila J. Kelly, Secretary

Board of Trustees

Northeast Ohio Regional Sewer District



Darnell Brown, President

Board of Trustees

Northeast Ohio Regional Sewer District